



# U.S. DEPARTMENT of STATE

## Kenya

### Country Reports on Human Rights Practices - [2004](#)

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Kenya is a republic dominated by a strong presidency. In December 2002, citizens elected Mwai Kibaki of the opposition National Rainbow Coalition (NARC) as the country's third president. Kibaki succeeded Daniel Arap Moi, who led the former ruling party, the Kenya African National Union (KANU), and who served as President from 1978 to 2002. During the 2002 general elections, KANU, which had controlled both the presidency and the Parliament continuously since 1963, lost its parliamentary majority to NARC, a coalition of more than a dozen political parties, some of whose members included defectors from KANU. Observers concluded that the elections broadly reflected the popular will and were free and fair. The judiciary is constitutionally independent but was at times subject to executive branch influence. Judiciary reforms initiated in 2003 reduced corruption but also increased case backlogs.

In addition to the armed forces, there is a large internal security apparatus that includes the police's Criminal Investigation Department (CID), the National Security Intelligence Service (NSIS), the National Police, the Administration Police, and the paramilitary General Services Unit (GSU), which detail members on a rotating basis to staff the 700-person Presidential Escort. The CID investigates criminal activity, and the NSIS collects intelligence and monitors persons considered subversive. These security forces are under the authority of the Minister of State for Provincial Administration and National Security in the Office of the President. While civilian authorities generally maintained effective control of the security forces, there were some instances in which the security forces acted independently of government authority. Because of a spiraling crime wave and a public perception that police were often either involved or complicit in criminal activity, in April, an active duty army officer replaced the police commissioner. Some members of the security forces committed serious human rights abuses.

The economy is market-based, with the agricultural sector employing more than 70 percent of the country's population of approximately 32 million. The economic growth rate for the year was projected to be 2.6 percent, up from 1.8 percent in 2003. While the Government's estimate of the unemployment rate was 28 percent, other sources placed unemployment at more than 40 percent. In an effort to keep pace with inflation, during the year, the Government increased public sector salaries by an average of 11 percent. Most private sector employers also attempted to revise compensation to reflect changing economic conditions. Although many sectors continued to be dominated by state-owned monopolies, the nonagricultural economy included large privately owned light manufacturing, commercial, and financial firms. Following the Government's adoption of two anti-corruption measures in 2003, major international financial institutions, which had suspended assistance in previous years, began to provide assistance, while other donors postponed flows of official development assistance after reports of renewed corruption surfaced. Approximately 56 percent of the population lived at or below the poverty level on less than \$1 per day. The incidence of HIV/AIDS infection in adults fell to 7 percent from the previous year's estimate of 14 percent; although this 1-year decline was due more to a re-evaluation of previous data than to an actual decline in prevalence, it showed that prevalence was substantially lower than its estimated peak of 23 percent in the mid-1990s. In July, President Kibaki declared a drought disaster affecting more than 10 percent of the population and appealed to international donors to provide food and non-food assistance through the end of the year. Security problems, as well as unreliable power and telecommunication systems and dilapidated roads, exacerbated economic problems and fueled disinvestment.

The Government's human rights record remained poor, largely due to the abuses of its security forces; although there were a number of improvements, serious problems remained. Police committed unlawful killings, tortured and beat detainees, arrested citizens arbitrarily, and used excessive force. Despite some improvements, prisons remained seriously overcrowded, and conditions often were life threatening. Pretrial detention was a serious problem. There were fewer reports that authorities infringed on citizens' privacy rights. The Government occasionally attempted to restrict freedom of press and assembly; however, there were fewer reports of this than in previous years. Parliamentary and civic elections that took place during the year were generally free and fair, although some political parties attempted to bribe and intimidate voters. Vigilante justice, as well as mob and interethnic violence, continued to be problems. Violence and discrimination against women and abuse of children by citizens remained serious problems. Female genital mutilation (FGM), domestic violence, and child prostitution remained widespread. Child labor remained a problem, and there were instances of forced child labor. Trafficking of persons, including the theft of newly born children, was a problem that gained significant attention from the Government and media during the year.

The Government instituted a number of reforms during the year to improve human rights. There were no politically motivated arrests or disappearances during the year. For prisons, the Government outlawed corporal punishment and liberalized

regulations for family visitations. The Government allowed prisoners to vote and to sit for the Primary School Certificate examination. The Government also allowed human rights organizations to inspect prisons, although some organizations continued to have problems actually doing so. The Government arrested and prosecuted a number of police officers for abuses; however, most police who committed abuses were neither investigated nor punished. The Government created and activated a new institution to root out corruption, although, by year's end, the Government had not arrested or prosecuted any high-level government officials on corruption charges. Unlike in previous years, the Government did not harass NGOs. The Government began to equip public buildings with wheelchair ramps, elevators, and sanitary facilities and to broadcast some news programs in sign language. The Government generally protected the rights of workers to join unions and engage in collective bargaining.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no politically motivated killings by the Government or its agents reported during the year; however, security forces committed a number of unlawful killings. In its 2003 report, the Independent Medico Legal Unit (IMLU), a leading human rights nongovernmental organization (NGO), investigated 34 allegations of unlawful killings by the security forces; of these, 15 showed evidence of torture. During the year, IMLU reported that police officers killed 27 persons (compared with 117 in 2003); another 6 were killed while in police custody (compared with 11 in 2003). IMLU reported that at least 15 of these deaths were unlawful killings.

There were reports that police summarily executed persons. For example, in March, police officers summoned a senior officer to Nairobi's industrial area after arresting three men in a mini-bus; upon arrival at the scene, the senior officer allegedly executed the three suspects. The Government declined to open an investigation into the case for lack of witnesses.

In July, the police shot and killed seven persons in Kisii. The police released the names of the seven, claiming that all were well-known criminals, that they were planning a robbery, and that they were killed in an exchange of gunfire with police. However, eyewitnesses said that a CID officer executed the seven after ordering them to lie down. Sources claimed that one or more of the victims planned to reveal the names of officers engaged in crime and were executed to keep them quiet. Two weeks after the seven were killed, two of those on the police list of those killed, Evans Omari Sianyo and James Kang'ethe, came out of hiding. This appeared to confirm the allegation that the police had the list before the seven victims were killed and that the two who came out of hiding had gotten word of their pending executions. IMLU and the Kenya National Commission on Human Rights (KNCHR), the Government's human rights watchdog agency, concluded that the killings were summary executions.

Law enforcement officials maintained that security forces usually were justified in their use of deadly force because of the heavily armed, violent criminals they often encountered. Police claimed that criminals' more frequent use of sophisticated weapons had increased the risks faced by police in performing their duties. However, in responding to continuing high levels of crime, some police used excessive and deadly force, sometimes without apparent provocation. For example, in February, an Administration police officer shot and killed a secondary school student in Kisii while the student was fleeing from a riot. At year's end, the District Criminal Investigations Officer was conducting an inquest into the shooting.

During the year, a number of persons died while in, or shortly after being in, police custody; however, there were fewer reports than in previous years. For example, in April, police arrested a man in Eastern Province on suspicion that he was about to break into a shop; police tied the man to a tree overnight, then took him the next day to a police station where he subsequently died. In July, an inmate at the Kitale prison died a few hours after guards beat him. The prison authorities said the inmate died of natural causes, but hospital authorities said he was beaten to death after trying to escape the prison.

Also in July, a government pathologist, Moses Njue, testified he had been suspended from his job after releasing a postmortem examination report concluding that the police had tortured a prisoner to death in March 2002. Njue said police had threatened him with death if he did not rescind the report, but after Njue threatened to sue the Government, he was reinstated to his job in January.

On September 27, five prisoners at Meru G.K. Prison died in their cell, and a sixth prisoner died en route to the hospital. According to an Amnesty International statement, the District Medical Officer said the prisoners, George Kimathi, Festus Ntombura, Bafa Gitonga, Joseph Thuku, Patrick Muriungi, and an unidentified sixth individual, died of suffocation and sustained injuries consistent with congestion. The 5 were among 12 detained in a 3-by 6-foot cell. Prison officials at first attributed the deaths to "a drunk-related illness." IMLU conducted an investigation, including autopsies, into the five deaths and concluded that four of the five died from blunt force trauma, the fifth from strangulation. According to IMLU's interviews, prisoners had been fighting for space in the cell, and prison guards beat the prisoners who died when they refused to re-enter the congested cell. In the course of its investigation, IMLU discovered that six other inmates in Meru prison had died under suspicious circumstances. IMLU's autopsies on these six revealed that four of the six had sustained head injuries consistent with blunt force trauma while the two others died of natural causes. Authorities suspended two senior Meru Prison officials, and Vice President Moody Awori, who is also the Minister for Home Affairs responsible for prisons, ordered an investigation into allegations that guards and other inmates beat the five deceased men. The investigation was ongoing at year's end.

During the year, police at times used excessive force to disperse demonstrations and strikes, which resulted in deaths (see Section 2.b.). In August, police shot and killed one man and injured others when they dispersed a mob in Nairobi's Kibera slum. Authorities did not investigate the incident.

During the year, the Government took some steps to curb abuses by security forces. According to an IMLU report at the beginning of the year, out of 45 unlawful killings committed by police in recent years, the Attorney-General had ordered an inquest into only 3 of the cases. However, during the year the Government opened several more investigations into allegations of unlawful killings, some of which resulted in the arrest of police officers. For example, in February, police opened an investigation into the police shooting of Purity Mburu; police had opened fire on the vehicle in which Mburu was riding on the mistaken assumption that the car had been hijacked. In March, the Government opened a murder trial against six prison guards accused of killing six prisoners in the central part of the country in 2000. In May, nine policemen who beat to death a man with mental disabilities in Mwingi District were arrested and charged with murder. Also in May, Justice Minister Kiraitu Murungi ordered police to arrest, rather than kill, persons suspected of crimes. Police took a fellow officer into custody in connection with the shooting death of a rioter in Kisumu in early July. The Commissioner of Police opened an investigation into the conduct of the police during the Kisumu demonstrations, including specifically why it was necessary to use live, rather than rubber, bullets to disperse the crowds. Despite these efforts, most police who committed abuses were neither investigated nor punished.

In July, Francis Kimanzi Mbaiya, an Administration police officer, was convicted of manslaughter and jailed for 10 years for having killed a Catholic monk 7 years previously.

There were no developments in the 2003 case of Njuguna Kaboi, who had been found dead and handcuffed in a river after being held in police custody; in the March 2003 killing of Nixon Wanjala; or the June 2003 deaths of William Guto and Thomas Osiago; all of whom reportedly died while in police custody; or in the investigation of the August 2003 death of Alice Mwetu, who died 1 day after being released from jail.

At year's end, five police officers accused of torturing to death Paul Kimani Wambiru in 2002 were standing trial in Nyeri High Court.

At year's end, six police officers were on trial on charges that they tortured three suspects accused of the September 2003 killing of Crispin Odhiambo Mbai, the chairman of the Devolution Committee of the National Constitutional Conference (see Section 2.a.).

During the year, there were numerous instances of mob violence and vigilante justice. The great majority of victims killed by mobs were suspected of criminal activities, including robbery, cattle rustling, and membership in terror gangs. Only a very few of these involved the Government.

In May, police and civilians killed three men who allegedly had earlier robbed a bread van in Murang'a District. Also in May, villagers in Naivasha killed a man who had been released from prison on presidential clemency in December 2003 and burned down the house of one of the victim's alleged accomplices. In another May incident, villagers killed a man in Meru North District whom they suspected of killing a 9-year-old herdsboy the previous week and of intending to assault sexually two other boys. In November, villagers killed a man in Kirinyaga District whom they accused of raping and killing a 14-year-old girl. Most perpetrators of mob violence went unpunished, and there were no developments in cases reported in previous years.

There were reports that mobs killed members of their communities on suspicion that they practiced witchcraft. For example, in May, villagers in Meru District burned to death a man they suspected to be a sorcerer; the villagers also razed the house of the deceased man's parents. In September, police said that unknown persons killed a 70-year-old man in Coast Province for allegedly practicing witchcraft. In November, secondary school students attacked, but did not kill, a couple in their home in Kisumu District on suspicion that the woman had used witchcraft to cause the death of one of their classmates.

Human rights observers attributed mob violence to a lack of public confidence in police and the judicial process. The social acceptability of mob violence also sometimes provided cover for apparent personal vengeance and the settling of land disputes.

The Mungiki, a banned cultural and political movement based in part on Kikuyu ethnic traditions, was responsible for numerous attacks and killings during the year. Observers believed that as many as 14 killings or disappearances of former Mungiki between February and June were meant to punish Mungiki defectors. In March, the police arrested 30 Mungiki members, including the alleged kidnapper of a Mungiki defector, and charged them with various crimes, including the killings of a group of defectors. Later, police arrested an additional 100 Mungiki, including 2 police officers, on charges of belonging to a banned organization. Police subsequently released 83 of those arrested. In May, unknown assailants beheaded one of the released prisoners, allegedly for having disclosed Mungiki secrets to police. In June, unknown assailants also killed a young woman with connections to Mungiki.

In September, Central Province Commissioner Peter Raburu issued a shoot-to-kill order against Mungiki following a new wave of violence allegedly unleashed by the Mungiki in Maragua District; within days, higher authorities rescinded the order. Also in September, police in Nakuru District arrested a 78-year-old Mungiki member for the rape and beheading of a 13-year-old girl; the suspect allegedly administered oaths to new Mungiki recruits and killed the girl to cover up the rape. In December, police undertook a manhunt for alleged Mungiki who had been terrorizing public minibus riders and other residents over a 2-day period.

in a Nairobi.

In December, a judge set free, due to lack of evidence, former Member of Parliament (M.P.) David Manyara and 12 alleged Mungiki. The 13 had been in detention since January 2003 on charges they had killed 10 persons in connection with the 2002 elections.

Interethnic violence continued to cause numerous deaths (see Section 5).

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, while the Government has declared that torture is not acceptable and has taken steps to eliminate prisoner abuse, security forces continued on numerous occasions to use physical violence and torture during interrogation and as punishment both of pretrial detainees and convicted prisoners.

Detainees frequently claimed that they had been tortured or abused, making it difficult to separate real from fabricated incidents; however, human rights organizations, churches, and the press highlighted and criticized numerous cases of torture and several cases of indiscriminate police beatings. During the year, IMLU received 304 cases alleging torture at the hands of security officers, which represented an increase from the 230 allegations IMLU received in 2003. There were numerous cases of police torture that resulted in death (see Section 1.a.).

In May, Agriculture Minister Kipruto Kirwa accused home guards in Trans Nzoia District of building torture cells and of chaining detainees to trees overnight in the rain; subsequently, police dismissed from employment 17 home guards from the area.

In June, forest officers in Mount Elgon tortured a student by forcing him to sit on hot charcoal and also broke the legs of a herdsman, accusing the two of illegal grazing.

There were no developments in the investigation of Maithya Kivuli, who died in 2003 after having been confined all night in a tiny room infested with ants, or in the case of Arwings Odera, a freelance journalist allegedly injured in 2002 by police.

Police occasionally used excessive force to disperse demonstrations and strikes, which resulted in injuries (see Section 2.b.).

Police occasionally abused street children (see Section 5, Children).

Allegations of rape by security forces surfaced periodically (see Section 5). Late in 2003, 650 Maasai and Samburu women filed charges of rape against British soldiers who had, over the past 30 years, been involved in periodic training exercises near Mt. Kenya. The women also filed a multi-million dollar compensation suit against the British government. In April, an M.P. from the area, Mwangi Kiunjuri, claimed that 600 of the 650 cases were fraudulent and that a local organization called Impact urged local prostitutes to file false charges for money. Human rights groups, including the Federation of International Women Lawyers (FIDA), pressed the Government to continue its investigation, which was ongoing at year's end.

Acts of violence, including rape, banditry, and shootings, occurred frequently near refugee camps (see Sections 2.d. and 5).

Prison conditions continued to be harsh and life threatening. Prisoners were subjected to severe overcrowding, deficient health care, and unsanitary conditions, and received inadequate water, diet, and bedding. In September, jails housed 52,000 inmates, despite a capacity of 16,000. Meru Prison, built in 1950 with a capacity for 500 persons, held 1,600, of whom 200 were women. There were also 43 children belonging to women prisoners. During the year, some prisoners died (see Section 1.a.) of suspect causes. The courts partly were responsible for prison overcrowding, as the backlog of cases in the judicial system continued to fill the prisons with pretrial detainees.

Police, prison guards, and inmates continued to subject prisoners to torture and inhumane treatment. However, unlike in previous years, there were no reports of particularly egregious abuses, such as the application of electrical shocks to genitalia, subjecting inmates to artificial light from a 150-watt bulb continuously for up to 24 hours, and female inmates being stripped and placed in solitary confinement in a flooded cell for up to a week.

Rape of both male and female inmates, primarily by fellow inmates, was a serious problem, as was the increasing incidence of HIV/AIDS. Disease in prisons was widespread and a number of prisoners died due to life threatening prison conditions, including inadequate food and medical treatment. According to government statistics, 536 prisoners died in 2002, primarily as a result of pulmonary tuberculosis, gastroenteritis, pneumonia, and malaria. Dysentery, anemia, malaria, heart attack, typhoid fever, and HIV/AIDS also were common causes of death among prisoners. In March, IMLU said that government negligence was to blame for the increasing number of deaths among inmates.

Prisoners generally received three meals per day; however, portions were inadequate, and prisoners were sometimes given half rations as punishment. Water shortages continued to be a problem in some prisons, particularly at the Kakamega Prison, where running water has not been available to prisoners for the last 5 years. In a change from 2003, the Government provided women with sanitary napkins.

Prisoners sometimes were kept in solitary confinement far longer than the maximum 90 days allowed by law. Prisoners and detainees frequently were denied the right to contact relatives or lawyers. Family members visiting prisoners faced numerous bureaucratic and physical obstacles, each requiring a bribe.

In August, the People Daily reported that prison officers at Thika Prison routinely released prisoners and colluded with them to commit crimes. The newspaper added that torture, illegal sales of hard drugs, and sexual abuse were routine in the prison. In September, 3 prison guards at a facility in Naivasha went on trial for helping 28 pretrial detainees accused of capital offenses escape from that prison; the escapees were captured in possession of all their personal effects, which normally would have been confiscated when they entered the prison. The trial was ongoing at year's end.

Nearly all prisoners serving more than 6 months in prison worked in prison industries and farms. The Government reported that prisoners could earn approximately \$0.62 (50 shillings) per year or \$0.20 (16 shillings) per item produced. Prisoners could, with permission, work beyond the 8-hour day to produce goods, from which they earned two-thirds of the profits. Prisons were unable to invest the estimated annual profits of \$826,600 (67 million shillings) in the prisons because income generated was sent directly to the Government Consolidated Fund. Prisoners complained of being overworked; however, many inmates left prison with a valid trade certificate. Unlike in the previous year, there were no allegations that prison officials used the free prison labor for personal profit.

The Government made efforts to reduce understaffing and overcrowding at youth detention centers. Unlike in previous years, there were no reports that juvenile detainees were subjected to corporal punishment.

Men, women, and children officially were kept in separate cells. There were no reports that men and women were placed in the same cells. However, teenagers frequently were kept in cells with adults in overcrowded prisons and detention centers.

During the year, pretrial detainees were housed in the same facilities as convicts in some prisons. In Kamiti Prison, detainees were housed with patients having mental disabilities.

The Government implemented several reforms in prisons, including allowing inmates to receive education and improved medical treatment, to wear shoes and to vote, and to have greater visitation rights, including inspections by human rights groups. In April, the Government began providing instruction in human rights to prison staff. The Government also outlawed corporal punishment of prisoners and began allowing conjugal visits. In addition, the Government continued its Community Service Order, allowing prisoners to serve out their sentences in community service rather than in prisons; however, magistrates did not fully utilize community service as an alternative to custodial sentences for petty offenders, and there were delays in releasing petty offenders already committed to the community service program.

The KNCHR, as well as the International Committee of the Red Cross (ICRC), had the authority to inspect prison facilities on demand at any time; however, the Government did not permit consistent independent monitoring of prison conditions, and the ICRC did not visit the country during the year. In February, an IMLU official was ordered to leave Kamiti Maximum Security Prison even though he was on an official visit in the company of two KNCHR commissioners. In August, police denied a KNCHR commissioner and other human rights monitors access to Laikipia police station cells and refused to allow the team to conduct interviews with 100 herdsmen who had been arrested on charges of cattle rustling. Later, police stopped the human rights group along the road, threatened to kill them, and confiscated a videotape that contained evidence of human rights abuses. The Government occasionally granted permission to domestic NGOS to visit prisons; however, obtaining such permission was difficult.

Some independent NGOs worked with the Government in evaluating torture cases and performing autopsies on deceased prisoners. In June, IMLU and another human rights NGO, People Against Torture, organized a clinic that provided medical, legal, and psychological counseling services to inmates (about two-thirds convicts and one-third pretrial detainees) at Kerugoya Prison in Kirinyaga District. In December, IMLU visited 16 prisons throughout the country. On one occasion, the Government allowed access to the media and permitted the use of television cameras in a prison.

#### d. Arbitrary Arrest or Detention

The Constitution prohibits arrest or detention absent a court order unless there is reasonable suspicion of a suspect having committed, or being about to commit, a criminal offense under the law; however, police occasionally arrested and detained citizens arbitrarily.

There is a large internal security apparatus that includes the police's CID, the NSIS, the National Police, the Administration Police, and the paramilitary GSU. The CID investigates criminal activity, and the NSIS collects intelligence and monitors persons considered subversive. There was a public perception that police often were involved or complicit in criminal activity. During the year, an active duty army officer replaced the police commissioner.

Police corruption was systematic and widespread. A December survey by Transparency International found that the police force was viewed as the most corrupt entity within the country. Police often arrested citizens arbitrarily, sometimes with the sole purpose of extorting bribes. Police, in conjunction with prosecutors, resorted to unexplained illegal confinements, extortion, torture, and the preferring of highly questionable and fabricated non-bailable charges as a cover-up for malpractice. Police often held detainees for lengthy periods without trial.

Impunity was a serious problem. Officers were rarely prosecuted for using excessive force. Authorities sometimes attributed the absence of an investigation into an unlawful killing to the failure of citizens to file official complaints. However, the required complaint form was available only at police stations, and there was considerable public skepticism of a process that assigned the investigation of police abuse to the police themselves.

During the year, the Government took some steps to curb abuses of authority by police (see Sections 1.a. and 1.c.). The Government arrested and charged several police officers for various offenses, including corruption; however, the Government did not provide details on how many of these indicted police officers were tried, acquitted, convicted, or imprisoned. To reduce incentives for corruption, the Government provided the police with a 115 percent increase in salaries, beginning in January.

During the year, police officially adopted and began using the FIDA curriculum on gender-based violence.

The Constitution provides that persons arrested or detained be brought before a court within 24 hours in non-capital offenses and within 14 days in capital cases. The Penal Code specifically excludes weekends and holidays from this 14-day period. For those who were charged, it often was possible to be released on bail with a bond or other assurance of the suspect's return, but many indigent pretrial detainees could not afford even the lowest bail.

The law does not stipulate the period within which the trial of a charged suspect must begin. Police from the arresting location were responsible for serving court summons and for picking up detainees from the prison each time the courts heard their cases. Police often failed to show up or lacked the means to transport the detainees, who then were forced to await the next hearing of their case.

The law provides that families and attorneys of pretrial detainees are allowed access to them; however, this right often was not honored (see Section 1.c.). Family members and attorneys may visit convicted prisoners only at the discretion of the authorities, and permission to do so frequently was denied.

Arbitrary arrest was a problem. In May, administration police officers arrested Elijah Irungu Muthoni in Nairobi; Irungu claimed that police beat him, planted an illegal drug on his body, and demanded a bribe of \$40 (approximately 3,270 shillings) for his release. There was no information on his release. Also in May, police arrested 17-year-old Margaret Muthoni Murage on theft charges; the day after her arrest, Murage, who was 6 months pregnant, miscarried; she claimed that police beat her. In June, police arrested and beat David Ndegwa Kimemia on allegations that he had abused an area chief; Ndegwa suffered a broken leg and was charged with creating a disturbance. In both the Murage and Kimemia cases, the Litigation Fund Against Torture has retained counsel to represent the accused, and the cases were ongoing at year's end. According to IMLU, none of these arrests was made with a proper warrant.

Police continued to conduct massive searches ("sweeps") for illegal immigrants, criminals, and firearms; citizens frequently accused police officers of soliciting bribes or falsely arresting individuals to extract bribes during such searches. The Litigation Fund Against Torture claimed that innocent persons in low-income areas of Nairobi were caught in these sweeps and arrested frequently for failing to carry identification cards, or simply for loitering, idling, or looking suspicious. In April, M.P.s criticized Internal Security Minister Chris Murungaru over continued allegations of police harassment of civilians, including the arrest of innocent persons to extract bribes in exchange for their release.

Unlike in previous years, there were no reports that police arrested journalists or NGO members.

Lengthy pretrial detention continued to be a serious problem. The Government reported that approximately 33 percent of the prison population consisted of pretrial detainees. The Government claimed the average time spent by suspects in pretrial detention on capital charges was approximately 16 months; however, many detainees spent more than 3 years in prison before their trials were completed. Very few could afford attorneys. The Government acknowledged cases in which persons were held in pretrial detention for several years.

In March 2003, the media reported that Joseph Kamau Njoroge had served 18 years in prison awaiting the outcome of his trial and that Wanjiku Kamandere had served 17 years in prison on pretrial detention; both men continued to remain in custody at year's end.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, the executive branch often influenced the judiciary. The President has extensive powers over appointments, including those of the Attorney General, the Chief Justice, and Appeal and High Court judges. The President also can dismiss judges and the Attorney General upon the recommendation of a special

tribunal appointed by the President. Although judges have life tenure (except for the very few foreign judges hired by contract), the President has extensive authority over transfers.

Reforms begun in 2003 reduced corruption in the judiciary during the year. In 2003, the anti-corruption authority cited credible evidence of corruption against 5 of 9 Appeal Court judges and proof of graft and misconduct against 18 of 36 High Court Judges and 82 of 254 magistrates; 38 magistrates were suspended (although by year's end most had resumed work to alleviate the caseload backlog), and 44 others were transferred. However, by year's end no legal charges had been filed against any of the judges suspended or transferred in 2003.

The court system consisted of a Court of Appeals, a High Court, and two levels of magistrate courts, where most criminal and civil cases originated. The Chief Justice was a member of both the Court of Appeals and the High Court. Military personnel were tried by military courts-martial, and verdicts may be appealed through military court channels. The Chief Justice appointed attorneys for military personnel on a case-by-case basis.

Civilians are tried publicly, although some testimony may be given in closed session. The law provides for a presumption of innocence, and defendants have the right to attend their trial, to confront witnesses, and to present witnesses and evidence. Civilians also can appeal a verdict to the High Court and ultimately to the Court of Appeals. Judges hear all cases. In treason and murder cases, the deputy registrar of the High Court can appoint three assessors to sit with the High Court judge. The assessors are taken from all walks of life and received a sitting allowance for the case. Although the assessors render verdicts, their judgments are not binding. Lawyers can object to the appointments of specific assessors.

Defendants do not have the right to government-provided legal counsel, except in capital cases. For lesser charges, free legal aid rarely was available, and then only in Nairobi and other major cities where some human rights organizations, notably FIDA, provided legal aid. As a result, poor persons may be convicted for lack of an adequate defense. Defense lawyers do not always have access to government-held evidence in advance of a trial. The Government can plead the State Security Secrets law as a basis for withholding evidence, and local officials sometimes classified documents to hide the guilt of government officials. Court fees for filing and hearing cases were high for ordinary citizens. The daily rate of at least \$25 (approximately 2,040 shillings) for arguing a civil case before a judge was beyond the reach of most citizens.

The Constitution provides for Islamic courts that use Shari'a law and states that the "jurisdiction of a Kadhi's court shall extend to the determination of questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all the parties profess the Muslim religion." There were no other customary or traditional courts in the country. However, the national courts used the customary law of an ethnic group as a guide in civil matters as long as it did not conflict with statutory law. This occurred most often in cases that involved marriage, death, and inheritance issues and in which there was an original contract founded in customary law. Citizens may choose between national and customary law when they enter into marriage or other contracts; however, thereafter the courts determine which kind of law governs the enforcement of the contract. Some women's organizations sought to eliminate customary law, arguing that it was biased in favor of men (see Section 5).

The Government significantly reduced the use of the legal system to harass government critics. Observers believed that most of those held at the end of 2003 had been released on bail and that the Government did not intend to pursue the charges against them.

Unlike in past years, the Attorney General's constitutional power to discontinue proceedings in private prosecution cases was not a problem.

There were no reports of political prisoners. Unlike in years past, there were no reports that police arrested and jailed political and human rights activists on spurious charges to curb their activities. Human rights activists Nicodemus Mutuki and Alois Mwaiwa Muia continued to have an appeal pending in connection with their acquittal in 2002 on murder charges.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, except "to promote public benefit"; however, authorities sometimes infringed on citizens' privacy rights. The Police Act permits police to enter a home forcibly if the time required to obtain a search warrant would "prejudice" the investigation. Although security officers generally obtained search warrants, they occasionally conducted searches without warrants to apprehend suspected criminals or to seize property believed stolen (see Section 1.d.). Unlike in the previous year, there were no complaints that police confiscated personal items when conducting occasional "sweeps" of suspected criminals.

There was a marked decrease in the monitoring of dissident activities by security forces.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, the Government sometimes restricted these rights,

and there were some reports that security forces harassed, beat, or arrested members of the media during the year. The regulatory framework for broadcast media allowed abuse and manipulation in the issuing, withholding, and revoking of broadcast permits and frequencies. Despite these pressures, the press, civic organizations, and opposition parties continued to present their views to the public, both in the print and electronic media. Journalists practiced self-censorship.

The Government broadly interpreted existing laws to restrict freedom of expression. Both the Constitutional prohibition of debates on issues under consideration by the courts and a ruling by the Speaker of the House against parliamentary debate of certain aspects of presidential conduct limited the scope of deliberation on a number of political issues.

In general, the media remained candid and independent. The mainstream print media included four daily newspapers that reported on national politics: The Nation, an independent daily that has long published articles generally critical of government policies; the East African Standard, which previously reflected KANU party views, but became more independent after the December 2002 elections; the People Daily, owned by an opposition politician and highly critical of the Government; and the Kenya Times, which generally reflected opposition KANU party views. There also were numerous independent tabloid periodicals, which appeared irregularly and were highly critical of the Government. Reporting in these tabloids ranged from revealing insider reports to unsubstantiated rumor mongering.

The government-owned Kenya Broadcasting Corporation (KBC), the country's oldest broadcaster, was the only station with a national network of broadcast and cable television, AM and FM radio, and short-wave broadcasts. In the past, KBC generally did not criticize the Government; however, under its current, more independent managing director, KBC coverage was more balanced. KBC's monopoly on national broadcasting continued to limit the ability of opposition leaders and other critics of the Government to communicate with the electorate outside the capital. Stations operated by other media companies, including 12 radio stations, operated primarily along the country's central corridor and more densely populated adjacent regions, the areas most commercially viable for private broadcast media.

Kenya Television Network, which was owned by KANU supporters, aired news programs with more balanced political coverage than KBC and remained the leading private television broadcaster. Stellavision, which also was owned by KANU supporters, rebroadcast SKY TV and British Broadcasting Corporation world news. Other television stations operating in Nairobi were Nation-TV, associated with the Nation media group, and Family, a Christian-oriented broadcaster. Citizen TV and Citizen Radio broadcast pro-government news and information programs.

Representatives of the international media remained free to operate; 120 international correspondents worked in the country, and approximately 100 media organizations reported out of Nairobi.

Kenyan journalists continued to be susceptible to harassment, intimidation, and arrest; however, there were fewer reports of harassment than in previous years. One such incident occurred on September 24, when approximately 20 masked gunman claiming to be police ransacked the offices of 2 newspapers, the Weekly Citizen and the Independent. The gunmen, who showed no identification, seized or destroyed computers, disks, scanners, printers, and other office equipment, allegedly to prevent publication of a government investigation into land-grabbing. Reporters Without Borders called on police to identify the individuals who carried out the raids and asked the Government to punish those responsible and compensate the newspapers. At year's end, no progress has been made in the investigation of this incident.

Police occasionally dispersed demonstrators to prevent criticism of the Government, and journalists covering such events often were present during the dispersal (see Section 2.b.).

The court case against East African Standard journalist David Makali for the alleged theft of a police tape containing the confession of suspects in the killing of University of Nairobi professor Crispin Odhiambo Mbai (see Section 1.a.) continued at year's end.

No further action was taken against those responsible for assaulting journalists in 2003 and 2002.

The Government reduced its selective prosecution of journalists under a colonial-era section of the Penal Code criminalizing the publication of information likely to cause fear or alarm.

The Media Bill requires publishers to purchase a bond of \$12,800 (approximately 1 million shillings) before printing any publication and to deposit copies of their newspapers and books with a registrar within 2 weeks of publication. The law makes it a crime to sell or distribute publications not deposited or bonded, under penalty of a fine of \$256 (approximately 21,000 shillings) or 6 months' imprisonment. Some members of the media were concerned that the Government would use this law, as well as the Books and Newspapers Act and the Official Secrets Act, to stifle freedom of expression; however, the law generally was not enforced.

The regulatory framework for broadcast media continued to allow abuse and manipulation in the issuance, withholding, and revoking of broadcast permits and frequencies. However, the Government revised regulations and procedures during the year to streamline and regularize cumbersome licensing procedures. The Government issued additional licenses during the year, including an additional frequency to owners of the popular but controversial KISS FM radio station.



Despite licensing the East African Television Network (EATN) to broadcast, because of a dispute, the Government continued to block EATN from using the frequencies, and the case was pending in the courts at year's end.

In the early months of the year, Citizen Radio jammed broadcasts of its competitor, KISS FM, over a management dispute. Authorities established that the broadcasts that had jammed the frequencies of KISS over 2 1/2 days originated from Citizen Radio's studios. As a result, the Government confiscated some of Citizen Radio's transmitters and fined Royal Media.

In April, after KISS FM made critical comments about Water Minister Martha Karua, the Minister sued two of the station's announcers. The Minister of Information and Communications, Raphael Tuju, subsequently created a media review board to decide what was acceptable on the public airwaves. The Kenyan Union of Journalists and civil society organizations criticized the establishment of the review board as an attempt to restrict freedom of the press. The board, headed by the chair of the KNCHR, recommended regulations of the media related to violence or sexually explicit content, but not other types of expression. The Government reportedly rejected the report. Neither the lawsuit nor the work of the media review board resulted in any concrete changes.

Toward the end of the year, there were reports of an increased use of criminal libel laws by individuals closely associated with government officials to intimidate journalists and publications. There were no developments in previous cases brought by M.P. Nicholas Biwott and State Comptroller Matere Keiri. Printers and distributors, as well as retail stores, were equally responsible with publishers and authors for libelous content.

Individual journalists practiced self-censorship because they experienced pressure or received bribes from government officials and other influential persons to avoid reporting on issues that could harm the interests of these persons or expose their alleged wrongdoings. There also were credible reports that journalists accepted payments to report or withhold certain stories, some of which were fabricated.

Sedition was not grounds for censorship of publications; however, the Prohibited Publications Review Board reviewed publication bans. A number of publications remained banned, including such works as "The Quotations of Chairman Mao Zedong" and Salman Rushdie's "Satanic Verses."

The Government did not restrict access to the Internet.

There were fewer reports during the year that the Government and school administrators limited academic freedom. In the past, lectures involving outside speakers and public audiences were routinely banned; however, such lectures occurred frequently during the year. Most notable were those of the writer Ngugi wa Thiong'o, who returned to the country after 22 years of self-imposed exile and delivered lectures at universities throughout the country. In addition, a previously banned teacher's union was reinstated and engaged in salary negotiations.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government occasionally restricted this right in practice. Organizers must notify the local police in advance of planned public meetings, and authorities may cancel such gatherings only if there are simultaneous meetings previously scheduled for the same venue, or if there are specific security threats; however, authorities sometimes disrupted public demonstrations and meetings even when the police had been informed in advance, often characterizing them as "illegal" gatherings. There were fewer reports than in previous years.

Police attempted to prevent some political and civil society activities from occurring during the year, but, in the end, allowed almost all to occur.

On May 14, police halted one fund-raising event and attempted to break up another near the town of Eldoret in Rift Valley Province. The following day, police halted a fund-raising event in Keiyo District, also in Rift Valley Province. In two of the three incidents, the police used some violence, although no one was seriously injured. All three events were organized by KANU, the opposition political party, and were intended to raise money for two secondary schools and a medical clinic. KANU officials claimed they had properly informed the police of all three events but that the police had nevertheless broken up the rallies on instructions from the Government.

During the year, police occasionally used excessive force to disperse demonstrations; however, there were fewer reports than in previous years. On July 3, police used tear gas, high pressure hoses, horses, helicopters and, reportedly, rubber bullets to disperse groups that were demonstrating against the failure of the Government to enact a new constitution by June 30 as had been promised by President Kibaki. Some demonstrators damaged property and engaged in looting, acts that police said justified their use of force. The group organizing the demonstrations had been granted permits to hold the demonstrations (even though technically no permits were needed) earlier in the week, but the Government had rescinded the permits on July 2. The following week, police used live ammunition, killing two persons and injuring several dozen others, to disperse demonstrators and rioters in the Western Province town of Kisumu; the demonstration in Kisumu was also held to protest the Government's failure to enact a new constitution (see Section 1.a.).

A police officer was taken into custody in connection with one of the shooting deaths in Kisumu in early July, and the Commissioner of Police announced that he had opened an investigation into the conduct of the police during the demonstrations, including specifically why it was necessary to use live, rather than rubber, bullets to disperse the rioters.

No action was taken against security forces who used excessive force to disperse demonstrations in 2003 and 2002. The investigation into the 2002 violent dispersal of a demonstration organized by the Center for Human Rights and Civic Education in Mwingi District was ongoing at year's end, and no developments were expected.

There were some violent incidents between progovernment supporters and opposition supporters during the year (see Section 3).

The Constitution provides for freedom of association, and the Government generally allowed this in practice. The Societies Act requires that every association be registered or exempted from registration by the Registrar of Societies. Approximately 40 political parties were registered. The only party denied registration was the Islamic Party of Kenya (IPK); however, the IPK had not resubmitted an application to register since NARC came to power in 2002.

The Mungiki, whom the Moi government outlawed along with a number of other groups in 2002, remained banned. The Mungiki espoused political views and cultural practices that were controversial in mainstream society; many of its members engaged in criminal activities and harassed and intimidated residents in areas where the group was active (see Section 1.a.). The number of Mungiki members was unknown, but the group had a significant following among the unemployed and other marginalized segments of society. Other groups that remained banned included the Kamjesh, Chinnololo, Sanina Youth, Baghdad Boys, Jehila Embakai, Jeshi la Mzee, Nmachuma, and the Taliban.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Unlike in previous years, the Government generally did not interfere with any activities of religious groups, although some Muslim leaders charged that the Government was hostile toward Islam.

The Government required religious organizations to register with the Registrar of Societies, which reported to the Office of the Attorney General. The Government allowed traditional indigenous religious organizations to register, although many chose not to do so. Religious organizations generally received equal treatment from the Government; however, some small splinter groups found it difficult to register due to their inability to define their status as more than an offshoot of a larger religious organization.

There generally was considerable tolerance among religious groups; however, some Muslims believed they were treated as second-class citizens in a predominantly Christian country. Muslims continued to complain that non-Muslims received better treatment when requesting citizenship documents. According to Muslim leaders, government authorities scrutinized more rigorously the identification cards of persons with Muslim surnames and sometimes required them to present additional documentation of their citizenship, such as birth certificates of parents or grandparents. In the past, the Government had singled out the overwhelmingly Muslim ethnic Somalis as the only group whose members were required to carry an additional form of identification to prove citizenship; however, this policy was no longer enforced.

The Government and Muslim and Christian groups remained engaged in a long-standing debate over whether special Islamic courts should be recognized in the country's Constitution. Muslims and human rights groups also voiced concerns over a proposed antiterrorism bill, claiming it would be used to target Muslims, and over government assistance to Islamic schools, fearing a dilution of Islamic teachings.

In May, police arrested a Nigerian pastor, a prominent doctor, and six other members of Winners Chapel International in the Western Province town of Kitale and charged them with torturing a church member. Local newspapers alleged that the man was tortured to force him to give up his child as a human sacrifice. The Nigerian-based religion, which has 10 churches in the country, denied the allegations.

Also in May, members of the Seventh-day Adventist Church claimed that they were among hundreds of workers fired by private companies operating in Nairobi's export processing zone (EPZ). The church members claimed that they lost their jobs because they refused to work on Saturdays.

At year's end, an inquest continued into the 2000 death of Father John Anthony Kaiser, a Catholic priest working in the country for more than 30 years. Although there was much public speculation to the contrary, an investigative report released by a foreign government in 2001 concluded that the evidence was most consistent with suicide and that it was unlikely that Father Kaiser had been killed.

There have been no developments in the March 2003 killing of Joseph Okech, who died in a fight during Sunday services between two factions of St. Stephen's Church in Dandora.

There were no further developments in incidents from previous years regarding disputes over land ownership and institutional

conflicts between rival religious factions.

For a more detailed discussion, see the [2004 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2004/41609.htm).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights and generally respected them in practice.

Police routinely stopped vehicles and checked vehicle safety and driver documents on roads throughout the country. Police often demanded bribes at such checkpoints. Ethnic Somalis were no longer required to provide additional identification.

The Government did not restrict foreign travel or emigration. Civil servants and M.P.s must get government permission for international travel, which generally was granted.

The Constitution prohibits forced exile, and the Government did not use it in practice.

Some of the several thousand persons displaced by ethnic clashes have not returned to their homes due to fear of renewed violence (see Section 5).

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, but the Government worked closely with the United Nations High Commissioner for Refugees (UNHCR) to provide protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The UNHCR granted refugee status to Somali refugees at the Dadaab camps and to Sudanese refugees at the Kakuma camp. A UNHCR eligibility committee in Nairobi performed a similar function for individuals of other nationalities.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 U.N. Convention or its 1967 Protocol. The Government provided temporary protection to the approximately 200,000 refugees registered by UNHCR who lived in official UNHCR camps. An undetermined number of refugees lived outside the camps in cities and rural areas. Somalis accounted for approximately 65 percent of the total refugee population, followed by large numbers of Sudanese and smaller numbers of other nationalities from across the region.

The Government required that all refugees reside at designated camps, most of which were located near the Somali and Sudanese borders, unless granted permission to live elsewhere in the country. Such permission was given primarily to attend higher education institutions, undergo medical treatment, or avoid security threats at the camps. However, many refugees lived illegally outside the camps, especially in Nairobi.

Incidents of rape of women and girls in refugee camps continued to occur. Many rapes occurred when women and girls collected firewood and building materials outside the camps; however, reported rapes declined during the year.

Acts of violence, including banditry and shootings, occurred frequently near the camps. Refugees were mistreated and abused by citizens and by residents of different refugee camps because of ethnic and religious differences. Interclan violence frequently erupted among rival Somali clans at the camps (see Section 5); family members also may subject to abuse Somali refugees who marry non-Muslims.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens the right to change their government through free and fair multiparty elections; citizens only fully realized this right in December 2002, when they chose a new president through an election for the first time since former President Moi was elected in 1978. The December 2002 elections were the country's third multiparty elections for presidential, parliamentary, and civic seats. Five presidential candidates contested the elections, but the main contestants were KANU candidate Uhuru Kenyatta and NARC candidate Mwai Kibaki, a Vice-President and Minister of Finance in former President Moi's government. NARC was a coalition of more than a dozen political parties, including former members of KANU, who formed a united front to contest the December general elections. Since independence in 1963, KANU had continuously controlled both the presidency and the national legislature. President Kibaki won 61.9 percent of the vote in the 2002 election, which was largely peaceful and determined by international observers to reflect the will of the people.

In the 2002 elections for the 222-member National Assembly, 210 seats were elected and 12 were nominated. Three by-elections--two in 2003 and two during the year--did not change the representation of the political parties in the national legislature. The NARC coalition held 132 seats (7 nominated); KANU held 68 seats (4 nominated); Ford-P held 15 seats (1 nominated); Safina, Ford-A, and Sisi held 2 seats each; and Shiriksho held 1 seat. Observers concluded that the two by-elections also broadly reflected the popular will, although both were marred by voter intimidation and bribery.

The Liberal Democratic Party (LDP), whose M.P.s hold 6 positions as ministers and 10 as assistant ministers in the

Government, was widely seen as an opposition party within the Government. In June, President Kibaki named three M.P.s as ministers and four as assistant ministers from the principal opposition party, KANU; one KANU Assistant Minister resigned in September. Both LDP and KANU filed lawsuits alleging that the Constitution prohibits the President from naming ministers or assistant ministers without the consent of the parties through which the nominees were elected to Parliament. Both cases were pending at year's end.

Police or organized youth gangs disrupted or forced the cancellation of some opposition meetings and rallies during the year, and politicians and public servants routinely warned political rivals against campaigning in their areas. On March 22, a gang of youths attacked Cabinet Minister Raila Odinga and LDP Secretary General Joseph Kamotho in Coast Province. The two politicians accused their nominal allies within the Government of hiring the youths to attack them. In April, assailants in Kisumu stoned the vehicle of Orie Rogo Manduli, who was the KANU candidate in a by-election for a seat in the National Assembly. Manduli blamed her opponent, Reverend Ken Nyagudi, for the attack; Nyagudi, who eventually won the seat as the candidate for the ruling NARC coalition, denied involvement. In December, unknown persons stoned vehicles and attacked politicians campaigning for various candidates in a by-election in Coast Province.

At the local level, President Kibaki released some funding for provincial and district governments through the Local Constituency Fund; however, he continued to exercise tight control over local administrations. The President appoints both the powerful provincial and district commissioners and numerous district and village officials. Elected local councils exist, but the central Government continued to restrict their functions. For example, early in the year the Minister of Local Government dismissed all the municipal councilors in the port city of Mombasa. Although rural and municipal councils are authorized by law to provide a wide range of health, education, and infrastructure services, in practice, their functions were limited to partial oversight of schools, secondary and tertiary roads, markets, and natural resources such as forests. Most councils lacked sufficient financial autonomy and revenues to perform adequately even these limited functions.

At the national level, the Constitution authorizes the President to dissolve the legislature and prohibits parliamentary debate on issues under consideration by the courts. M.P.s were entitled to introduce legislation, but, in practice, it generally was the Attorney General who did so. President Kibaki exercised considerably less influence over the legislative agenda than did former President Moi. For example, during the year, KANU and LDP M.P.s combined to defeat a government bill dealing with forestry protection. The National Assembly had the power to hire its own staff and to vote its own budget.

In March, the Constitution of Kenya Review Commission completed work on the drafting of a new constitution, but the Government refused to accept the draft. At year's end, the fate of the draft constitution remained subject to legal and political debate.

Frequent press reports fueled a widespread public perception that large-scale corruption at the highest levels of government and in Parliament continued unabated. The Anti-Corruption and Economic Crimes Bill, which sets rules for transparency and accountability, and the Public Officer Ethics Bill, which requires high government officials and their spouses to declare their wealth, were enacted. The Government also established an anticorruption authority to investigate and prosecute cases of corruption and appointed an anticorruption czar. Some anticorruption institutions began actively to pursue their mandates. In April, police arrested opposition M.P. William Ruto on charges of corruption that had occurred during the Moi administration; his case was ongoing at the end of the year. In August, the courts sentenced a prominent businessman and the former general manager of the National Bank of Kenya to 2 years in prison in connection with a corruption scandal that occurred 10 years ago. In September, the courts sentenced Dr. Margaret Gachara, the former director of the National AIDS Control Council, to 1 year in jail for misappropriation of funds; President Kibaki released Gachara, along with some 600 other prisoners, in December. The Government also suspended a number of high-ranking officials during the year pending corruption investigations; however, no ministers or assistant ministers were arrested or suspended.

During the June Cabinet reshuffle, John Githongo, the Permanent Secretary for Governance and Ethics, often referred to as the Government's anticorruption czar, was temporarily moved from the Office of the President to the Ministry of Justice and Constitutional Affairs. After local human rights NGOs and Western missions criticized the move as an attempt to decrease Githongo's authority, his office was moved back into the Office of the Presidency. In August, Parliament confirmed the appointment of former High Court Justice Aaron Ringera as Director of the Anti-Corruption Commission. In 2003, Ringera headed a special committee that concluded that 152 of 300 judges and magistrates were corrupt; his finding triggered the suspension of 38 magistrates and the transfer of 40 others (see Section 1.e.).

At year's end, there were 15 female M.P.s, (7 elected and 8 nominated) in the 222 seat National Assembly, 3 female ministers (out of 29), and 3 female assistant ministers (out of 40).

The 5 largest ethnic groups represented 70 percent of the population and held 167 of the 222 National Assembly seats. The remaining 37 ethnic groups represented 30 percent of the population and held 55 seats; 4 of the 29 ministers and 6 of the 40 assistant ministers were from the smaller ethnic groups.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to their

views; however, there were some reports that government officials intimidated and threatened to disrupt NGO activities, and that less-established NGOs, particularly those in rural areas, were subjected to interference from provincial administrators and security forces.

Approximately 15 domestic NGOs actively advocated for human rights in the country. Several NGOs maintained comprehensive files on human rights abuses. A number of attorneys represented the indigent and human rights advocates without compensation, although they could handle only a small percentage of those who needed assistance, and were concentrated chiefly in Nairobi and other large cities. The Government allowed human rights organizations to witness some autopsies of persons who died in police custody. The Attorney General's Office generally responded in detail to foreign embassies' human rights inquiries. Some local human rights NGOs complained that the Attorney General's office and other government offices often were not responsive to their inquiries; however, there were fewer such complaints than during the previous government.

Unlike in previous years, members of the Government did not publicly criticize NGOs, nor did the Government use the governmental NGO Coordination Board to put pressure on the nongovernmental National NGO Council.

Unlike in previous years, there were no reports that NGO employees were arrested.

The Kenya Human Rights Commission, a leading human rights NGO, produced a "Quarterly Human Rights Report" that cataloged the human rights situation in the country, as well as special reports on pressing human rights problems. The Institute for Education in Democracy and other NGOs monitored elections in cooperation with the Electoral Commission and diplomatic missions.

The KNCHR created by an act of Parliament in 2002 was able to perform its duties without government interference. Its 10 commissioners have the status of appeals court or high court judges; the Commission can issue summons, order the release of prisoners, and require compensation for human rights abuses. The KNCHR completed its recruitment of commissioners in 2003. During the year, although the Commission was still hiring staff, it launched an active program of prison visits and other human rights investigations.

According to its charter, the KNCHR has unfettered access to prisons, police stations, and to all information it needs to conduct investigations of human rights abuses; however, some authorities did not cooperate fully in human rights investigations (see Section 1.c.). NGO personnel accompanying KNCHR commissioners on official visits have the same access. In August, the KNCHR Chairman and another commissioner were briefly prevented from holding a procession in Nanyuki at the start of the Laikipia Human Rights Forum, even though the KNCHR had informed police in advance of its intention to hold the procession.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination on the basis of a person's "race, tribe, place of origin or residence or other local connection, political opinions, color, or creed"; however, government authorities did not enforce effectively many of these provisions. There was also evidence that some government officials at least tolerated and, in some instances, instigated ethnic violence.

#### Women

In 2003, the Government outlawed all forms of violence against women; however, domestic violence against women was a serious and widespread problem. The Kenya Demographic and Health Survey, released in August, revealed that more than half of women had experienced domestic violence after the age of 15 years. Data available in mid-year revealed an increase in rape cases. According to police statistics, there were 1,653 rape cases between January and July, which projected an annual rate of 2,800 cases, compared with 2,308 rape cases in 2003. Police attributed the upsurge to increased reporting by rape victims; however, available statistics probably underreported the problem since social mores discouraged women from going outside their families or ethnic groups to report sexual abuse. According to a 2003 study by the Center for Human Rights and Democracy, women in Eldoret did not report 60 percent of rape cases in the North Rift region for fear of unfair treatment by police. In contrast to these reports, FIDA-Kenya reported in September that gender violence had declined.

The law carries penalties of up to life imprisonment for rape, although actual sentences usually were no more than 10 years. The rate of prosecution remained low because of cultural inhibitions against publicly discussing sex, fear of retribution, disinclination of police to intervene in domestic disputes, and unavailability of doctors who otherwise might provide the necessary evidence for conviction. Moreover, wife beating was prevalent and largely condoned by much of society. Traditional culture permitted a husband to discipline his wife by physical means and was ambivalent about the seriousness of spousal rape. There was no law specifically prohibiting spousal rape.

There continued to be incidents of rape of refugee Somali women at the Dadaab refugee camps (see Section 2.d.). The majority of the rapes were perpetrated by Somali bandits crossing over the border, and a small number of the rapes may have been committed by security forces and police. During the year, there were 16 reported rapes and 9 defilements of Somali refugees in refugee camps, according to the UNHCR.

The law prohibits FGM for girls under 18 and forced FGM on girls or women of any age; however, FGM remained widespread, particularly in rural areas. In September, an international conference on FGM in Nairobi reported that, of the country's 42 ethnic groups, only 4—Luo, Luhya, Teso and Turkana—did not practice FGM. A women's rights workshop in October 2003 reported that at least 90 percent of women in North Eastern Province underwent FGM. According to Maendeleo Ya Wanawake (Development of Women), the percentage of girls undergoing the procedure was 80 to 90 percent in some districts of Eastern, Nyanza, and Rift Valley Provinces. FGM usually was performed at an early age.

Various communities have instituted "no cut" initiation rites for girls as an alternative to FGM. The Family Planning Association of Kenya (FPAK) established such a rite, called Ntanira na Kithomo (initiate me through education) in Nyambene in Meru; some Marakwet and Maasai communities also instituted similar rites of passage. According to the FPAK, its program contributed to a 13 percent decline in the prevalence of FGM in Meru North District.

Prostitution is illegal; however, it was a problem and was perpetuated by poverty. Prostitution contributed to the spread of HIV/AIDS, which affected approximately 7 percent of the working age population. In 2002, the U.N. Program on HIV/AIDS reported that 30 percent of pregnant women in Embu District in Eastern Province were HIV-positive, making it the area with the highest rate of infection in the country.

Sexual harassment in EPZs was a problem (see Section 6.e.).

Women experienced a wide range of discriminatory practices, limiting their political and economic rights and relegating them to second-class citizenship. The Constitution provides equal rights to men and women and specifically prohibits discrimination on grounds of gender; however, it allows only males to transmit citizenship automatically to their wives and children.

Women continued to face both legal and de facto discrimination in other areas. The Law of Succession, which governs inheritance rights, provides for equal consideration of male and female children; however, it terminates the inheritance rights of widows if they remarry, but does not do so for widowers. Moreover, a widow cannot be the sole administrator of her husband's estate unless she has her children's consent. Most women have little awareness of their legal rights to property and inheritance and accede to customary law on these issues. Under the customary law of many ethnic groups, a woman cannot own or inherit land, and she must live on the land as a guest of males who are relatives by blood or marriage. Wife inheritance, which restricts a woman's right to choose her mate and heightens her risk of contracting a sexually transmitted disease such as HIV/AIDS, was practiced in some communities. Although poor, uneducated women were more likely to suffer from property and inheritance discrimination than are educated women, even prominent women sometimes were victims. Following the death of Vice President Michael Wamalwa in 2003, male members of his family in Western Kenya laid claim both to his property and to his widow. Forced marriages were also common.

Women made up approximately 75 percent of the agricultural work force and have become active in urban small businesses. Nonetheless, the average monthly income of women was approximately two-thirds that of men, and women hold only 6 percent of land titles. Women had difficulty moving into nontraditional fields, were promoted more slowly than men, and were more likely to be laid off than men. Societal discrimination was most apparent in rural areas.

During the year, Parliament passed a bill creating a national commission on gender and gender development and also created a gender department within the Ministry of Gender, Sports, Culture, and Social Services. A growing number of women's organizations were active in the field of women's rights, including FIDA, the National Council of Women of Kenya, the National Commission on the Status of Women, the Education Center for Women in Democracy, and the League of Kenyan Women Voters. The Women's Political Caucus continued to lobby over matters of concern to women and to increase the influence of women on government policy.

#### Children

The Government was generally committed to the rights and welfare of children and has passed legislation and developed policies to promote education and protect children's rights; however, it lacked the resources to implement its policies fully.

The Government's Free Universal Primary Education Program, which began in January 2003, raised primary school enrollment from 6.1 million in 2002 to 7.2 million in 2003, according to Ministry of Education data. The 2003 figure constituted about 78 percent of the primary school age group. Most citizens welcomed tuition-free education; however, the policy also resulted in overcrowded classes because of insufficient teachers and an inadequate budget. About 79 percent of enrolled children completed the 8-year primary school education cycle. The law mandates compulsory schooling for all children through grade 12, but fewer than half of primary school graduates went on to secondary school. Approximately 79 percent of secondary school students completed the 4-year secondary cycle.

Levels of education for boys and girls differed widely. Although the number of boys and girls in school roughly was equal at the primary level, boys substantially outnumbered girls in higher education. Rural families were more reluctant to invest in educating girls than in educating boys, especially at the higher levels. According to FIDA-K, 8,000 to 13,000 girls drop out of school each year due to pregnancy. Women constituted 70 percent of the country's illiterate population.

Corporal punishment of students was banned formally in 2001 but has not ceased completely in practice. In March, the police

arrested two teachers for caning several schoolchildren, seriously injuring one of them.

The health care system for school children, which once provided periodic medical checkups and free milk, was defunct.

Child rape and molestation continued to be a serious problem. In March, The People Daily reported that 38 percent of children under 18 were sexually abused. Newspapers contained frequent reports of molestation or rape of children by schoolteachers, police, clergy, and others. For example, in February, five men raped an 11-year-old girl in Kiambu. In May, four street girls in Nairobi said that police had demanded sex in return for not arresting them. Also in May, a school inspector rescued a 13-year-old schoolgirl who had been kidnapped and defiled for 3 days by an adult male.

Legally, a man is not considered to have raped a girl under age 14 if he has sexual intercourse with her against her will; instead, he commits the lesser offense of defilement. The penalty for the felony of rape can be life imprisonment, while the penalty for defilement is usually less. In July, a man in Bondo District was sentenced to 10 years in prison for defiling a 14-year-old girl the previous month. Also in July, a Mombasa judge sentenced a man to 20 years in prison for defiling an 8-year-old girl in 2003.

Newspapers frequently highlighted the problem of child marriages. In July, a head teacher rescued a 14-year-old schoolgirl in Samburu District who had been forced by her parents to marry a 40-year-old man against her will.

Certain ethnic groups commonly practiced FGM on young girls, particularly in rural areas (see Section 5, Women).

Trafficking in children was a problem, as was child prostitution. Child prostitution has grown considerably due both to economic contraction and to the increase in the number of children orphaned because of the spread of HIV/AIDS (see Section 5, Trafficking). According to the International Labor Organization (ILO), approximately 30,000 girls under the age of 19 years were engaged in prostitution in the country.

Child labor was a problem (see Section 6.d.).

Economic displacement and the spread of HIV/AIDS continued to affect the problem of homeless street children. In 2002, the East African Standard reported an estimated 250,000 children living on the streets in urban areas--primarily Nairobi, Mombasa, Kisumu and Nakuru--a figure that it said was a conservative estimate. These children often were involved in theft, drug trafficking, assault, trespassing, and property damage. Street children faced harassment as well as physical and sexual abuse from police and within the juvenile justice system.

The Government provided programs to place street children in shelters and assisted NGOs in providing education, skills training, counseling, legal advice, and shelter for girls abused by their employers.

#### Trafficking in Persons

The law does not explicitly prohibit human trafficking, and there were reports that persons were trafficked to, from, and within the country. Various laws can be used to prosecute trafficking-related offenses. The Penal Code prohibits detaining females against their will for the purposes of prostitution as well as child labor, the transportation of children for sale, and the commercial sexual exploitation of children.

The country was one of origin, destination, and transit for victims trafficked for the purposes of sexual exploitation and forced labor. Victims were trafficked from South and East Asian countries and the Middle East and transited the country to European destinations for sexual exploitation. Asian nationals, principally Indians, Bangladeshis, and Nepalese, were trafficked into the country and coerced into bonded labor in the construction and garment industries. Unlike in the previous year, women were not trafficked to Lebanon and other Middle Eastern countries for labor, and children were not trafficked to Uganda to work. Internal trafficking was also a problem. In August, the police charged several persons with participating in an international child trafficking ring involving the abduction and foreign sale of infants and young children. At year's end, the accused were awaiting trial, and the investigation was ongoing.

During the year, the Government assigned 12 individuals to a newly created Criminal Intelligence Unit within the police to lead the operational elements of the Government's human trafficking efforts. Government assistance to NGOs to combat human trafficking was minimal due to resource constraints. The Ministry of Home Affairs established an office to assist its citizens working in Saudi Arabia. It also implemented an employment program, partially aimed at trafficking victims, that targeted orphaned and abandoned youth. In response to reports of citizens being victimized by fraudulent employment schemes in the Middle East, the Ministry of Labor operated a program of education, awareness, and inspection for agencies that facilitated the employment of citizens overseas. The program sought to educate citizens of their rights, to decrease the possibility of citizens becoming trafficking victims, and to crack down on the use of illegal smuggling firms. Citizens using legitimate employment agencies received information on their legal rights, and their contracts were filed with the Government. The Government began a registration program for coastal guesthouses, in part to deter sex tourism. The KPS, in conjunction with the Ministry of Information, conducted media programs to increase public awareness of trafficking.

#### Persons with Disabilities

The Persons With Disabilities Act, passed in 2003, prohibits discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services, and the Government made progress during the year in its implementation. The Government began to equip public buildings with wheelchair ramps, lifts, and sanitary facilities.

#### National/Racial/Ethnic Minorities

The country's population was divided into more than 40 ethnic groups, among which there were frequent allegations of discrimination and occasional violence. Unofficial results of the 1999 census indicated that the Kikuyu constituted 21 percent of the population, the Luhya 16 percent, the Kalenjin 12 percent, the Luo 11 percent, and the Kamba 10 percent of the population. The Kikuyu and the closely related Kamba, Meru, and Embu groups made up more than one-third of the country's population; members of these groups dominated much of private commerce and industry.

In private business and in the public sector, members of virtually all ethnic groups commonly discriminated in favor of other members of the same group. Neighborhoods in large cities tended to be segregated ethnically, although interethnic marriage has become fairly common in urban areas. Political disputes tended to correlate with ethnic differences.

Members of the coastal Bajuni, Mijikenda, and Digo communities accused the Government of denying them their rights to land and of favoring members of inland "up-country" ethnic groups, who migrated to the coast largely during the period when Kenyatta was president. Clashes also broke out between various clans during the fall in Trans Nzoia, Rift Valley Province, over land disputes. In December, an M.P. and 11 others, including municipal councilors, were arrested for having incited the M.P.'s Pokot constituents to invade private non-Pokot land; the 12 were later released on bail, and their trial was pending at year's end. Land ownership was the most important issue in the December parliamentary by-election in Mombasa (see Section 3).

Attacks and revenge counterattacks continued between ethnic groups throughout the country. Many factors contributed to interethnic conflicts, including the proliferation of guns, the commercialization of traditional cattle rustling, the development of a modern warrior/bandit culture (distinct from the traditional culture), irresponsible local political leadership, shrinking economic prospects for affected groups, a regional drought, and the inability or unwillingness of security forces to stem the violence.

In February, armed men from the Pokot tribe attacked members of the Turkana tribe, resulting in the deaths of 13 persons, including 3 children. In February, Maasai warriors killed a farmer and injured five others in a raid on an area in Laikipia District where land had been allocated to influential persons from the former KANU government. In April, flyers appeared in predominantly Kalenjin areas of the Rift Valley threatening to forcibly expel Kikuyu residents from the area. In December, clashes between 2 ethnic Somali clans, allegedly over access to a water source, claimed 24 lives in North Eastern Province.

In August, the Maasai said that a 99-year lease of Maasai land to the British colonial government had expired and that they were, therefore, reclaiming the land. Some Maasai invaded the land they claimed as their own. Police killed one man and arrested others.

Members of the Nubian community, most of whom were Muslim, claimed that the Government discriminated against them by trying to eliminate their ethnic identity. They also claimed that despite living in the country for generations, they were frequently denied identity cards, work permits, passports, and the right to own land because they could not prove that their grandparents or great-grandparents were citizens of the country. These measures, they claimed, hampered their access to education and employment opportunities, resulting in the impoverishment of their community, which numbered about 200,000. In June, the Nubian Community petitioned the High Court for redress of grievances related to their rights as citizens; the High Court had not rendered judgment on this suit by year's end.

The continued presence of and, at times, criminal activities by Somali refugees have exacerbated the problems faced by citizens of Somali ethnicity (see Section 2.d.).

Unlike in previous years, there were no reports of violence or discrimination among citizens of African ethnicity toward Asians living in the country. The Asian community constituted between 0.5 and 1 percent of the total population and consisted of second and third generation Asians with full citizenship and a smaller body of recent immigrants.

#### Other Societal Abuses and Discrimination

A lingering stigma toward people with HIV/AIDs made it difficult for many families to admit that their members were HIV positive. However, the Government worked in cooperation with international donors on programs of HIV/AIDs prevention and treatment.

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides that all workers, even those in the EPZs, are free to join unions of their choice, and workers exercised this right in practice. The Police Act prohibits members of the national police force from joining unions.



There were 42 unions representing approximately 600,000 workers, approximately one-third of the country's formal-sector work force. All but 5 of these unions, representing approximately 300,000 workers, were affiliated with the 1 approved national federation--the Central Organization of Trade Unions (COTU). The largest non-COTU union was the 240,000-member Kenya National Union of Teachers.

The law prohibits employers from intimidating workers; however, some anti-union discrimination still existed, specifically in the EPZs in Mombasa. Employees wrongfully dismissed for union activities were able to take their cases to the Industrial Court, and many were awarded damages in the form of back pay; reinstatement was not a common remedy. More often, aggrieved workers found alternative employment in the lengthy period prior to the hearing of their cases. The Government voiced its support for union freedom, but was unable to enforce it fully.

#### b. The Right to Organize and Bargain Collectively

While not having the force of law, the Industrial Relations Charter, executed by the Government, COTU, and the Federation of Kenya Employers, gives workers the right to engage in legitimate trade union organizational activities, and the Government protected these rights in practice. Both the Trade Disputes Act and the Charter authorize collective bargaining between unions and employers, and wages and conditions of employment were established in negotiations between unions and management. The Government permits wage increases of up to 100 percent and renegotiation of collective agreements; however, the law allows employers in ailing industries to dismiss workers regardless of the provisions of their collective bargaining agreements. Collective bargaining agreements must be registered with the Industrial Court to ensure adherence to these guidelines.

The law, with some restrictions, permits workers to strike, and workers exercised this right in practice. Unlike in previous years, police did not use excessive force to disperse strikes.

Workers must submit a letter to the Minister of Labor and wait 21 days before a strike can occur. Members of the military services, police, prison guards, and the National Youth Service are prohibited from striking. Other civil servants, like their private sector counterparts, can strike following the 21-day notice period (28 days for essential service workers, such as water, health, education, or air traffic control). During this interim period, the Minister may mediate the dispute, nominate an arbitrator, or refer the matter to the Industrial Court, a body of up to five judges appointed by the President, for binding arbitration. Once a dispute is referred to mediation, fact-finding, or arbitration, any subsequent strike is illegal. Moreover, the act gives the Minister of Labor broad discretionary power to determine the legality of any strike.

With the exception of the Factories Act, all labor laws apply in the EPZs (see Section 6.e.); however, the EPZ Authority and the Government granted many exemptions to applicable laws. For example, the Government waived a provision of the law that prevents women from working in industrial activities at night. There were reports that persons lost their jobs in EPZs because of their refusal to work on Saturdays (see Section 2.c.).

#### c. Prohibition of Forced or Compulsory Labor

The Constitution proscribes slavery, servitude, and forced and bonded labor, including by children; however, there were reports such practices occurred (see Section 6.d.). Under the Chiefs' Authority Act, a local authority can require persons to perform community services in an emergency; however, there was no attempt to use the law during the year.

#### d. Prohibition of Child Labor and Minimum Age for Employment

The employment in industry of children under the age of 16 is illegal; however, the law does not apply to the agricultural sector, where approximately 70 percent of the labor force was employed, or to children serving as apprentices under the terms of the Industrial Training Act, and child labor was a problem. Ministry of Labor and Human Resources Development officers nominally enforced the minimum age statute, and the Government worked closely with COTU and the ILO's International Program for the Elimination of Child Labor to eliminate child labor. The Government's Free Universal Primary Education Program resulted in the return to school in 2003 of approximately 1 million children who formerly were working; more than 1 million children were believed still to be working.

Children often worked as domestic servants in private homes, and during the year, there were reports of abuse of children serving as domestic employees. Children worked primarily in the informal sector, mostly in family businesses and usually assisted parents on family plots. A significant number of workers on tea, coffee, sugar, and rice plantations were children, who usually worked in family units. However, deteriorating economic conditions and the effects of the HIV/AIDS pandemic gave rise to more child labor in the informal sector, which was difficult to monitor and control. In addition, a large number of underage children were active in the sex industry (see Section 5). In view of the high levels of adult unemployment and underemployment, the employment of children in the formal industrial wage sector in violation of the Employment Act was less common.

The law establishes definitions of child labor, and, in June, the Government prepared a National Plan of Action to Eliminate the Worst Forms of Child Labor. A practical guide to labor inspection has been developed, and the Government trained labor inspectors and occupational health and safety officers to report on child labor. Many NGOs also were active in child labor issues and assisted in the return to school of child laborers. Unlike in previous years, there were no reports that children, especially in the rural areas, were loaned out as workers to pay off family debts.

## e. Acceptable Conditions of Work

The legal minimum wage for blue-collar workers in the wage sector has 12 separate scales, varying by location, age, and skill level; however, in many industries, the minimum wage equaled the maximum wage. On May 1, the Government announced an 11 percent increase in the minimum wage for workers in both urban and rural areas; the inflation rate was 10 percent. These increases were implemented immediately. The lowest minimum wage was approximately \$50 (3,908 shillings) per month in the largest urban areas and approximately \$42 (3,252 shillings) in rural areas. The minimum wage did not provide a decent standard of living for a worker and family. Most workers relied on second jobs, subsistence farming, informal sector opportunities, or the extended family for additional support.

Workers covered by a collective bargaining agreement generally received a better wage and benefit package than those not covered. For instance, the average covered worker received \$100 (approximately 8,170 shillings) per month in addition to a housing and transport allowance, which often constituted 25 to 50 percent of a worker's compensation package.

The law limits the normal workweek to 52 hours, although nighttime employees may be employed for up to 60 hours per week. Some categories of workers had a shorter workweek. As is the case with respect to minimum wage limitations, the law specifically excludes agricultural workers. An employee in the nonagricultural sector is entitled to 1 rest day per week, and there are provisions for 21 days of annual leave and sick leave. The law also provides that the total hours worked (regular time plus overtime) in any 2-week period not exceed 120 hours (144 hours for night workers). The Ministry of Labor and Human Resources Development was responsible for enforcing these regulations; however, there were reports of violations during the year. Workers in some enterprises claimed that employers forced them to work extra hours without overtime pay.

The law sets forth detailed environmental, health, and safety standards; however, the law was not always followed in practice, and fines generally were too low to serve as a deterrent to unsafe practices. EPZs are excluded from these legal provisions (see Section 6.b.). The Ministry of Labor's Directorate of Occupational Health and Safety Services (DOHSS) has the authority to inspect factories and work sites; however, the DOHSS lacked statutory authority to inspect factories in the EPZs. Labor and NGOs continued to criticize health and safety conditions in the EPZs and around the country. For example, the unions highlighted problems of sexual harassment in the EPZs since a large majority of EPZ workers were women. The Tailors and Textile Workers Union filed a complaint with the Ministry of Labor on behalf of 15 women from the EPZs who reportedly were fired because they were pregnant.

DOHSS health and safety inspectors may issue notices enjoining employers from practices or activities that involved a risk of serious personal injury. Such notices can be appealed to the Factories Appeals Court, a body of four members, one of whom must be a High Court judge. The law stipulates that factories that employ at least 20 persons have a health and safety committee with representation from workers; however, according to the Government, fewer than half of even the very largest factories had instituted health and safety committees. Workers were not forced by law to remain in hazardous conditions; however, many were reluctant to remove themselves because of the high unemployment problem and the resulting risk of job loss.